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To: Microsoft ATR
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Subject: Microsoft Settlement

Comment on the proposed Microsoft Settlement under the Tunney Act

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Being a software developer who has been hurt by Microsoft's illegal monopolist practices in the past and present, I do not think the proposed Microsoft settlement is acceptable.

There are many loopholes that will allow Microsoft to go ahead just as if nothing had happened:

Having to open APIs will not do any good unless API is both

- defined in a much wider range, including but not limited to functions in all important libraries (not just those needed to boot the system), and file formats (most notably the ones used by Microsoft Office. Many non-Microsoft applications need to be able to import and export Microsoft Office files).
- extended to cover patents. For example, Microsoft is currently trying to push ASF as a standard for video files. Since ASF is covered by patents, it is impossible to (legally) create or play back ASF files on non-Microsoft platforms, such as Linux.

It is vital that the patents may be used free of charge; if this isn't done, Open Source applications (which are mostly volunteer work) will be shut out.

The limitations on OEM deals are not sufficient either. Almost all larger OEMs have deals with Microsoft that pay Microsoft a fee per shipped computer rather than per shipped computer that is actually shipped with Windows, giving OEMs no incentive whatsoever to even consider alternatives.

Furthermore, the rules must be enforced much better. A committee without any real power is very likely to get ignored by Microsoft. Their previous conduct shows that they never respected any restrictions imposed upon them unless strictly enforced.

I suggest the committee must

- Be obligated to investigate any violation reports from the public
- Make all their findings public so there is some public control over them to ensure Microsoft does not just buy them out
- Have enough power to make Microsoft take them seriously, such as being able to prevent Microsoft products from being sold as long as they are violating terms AND fining them with fees that will actually hurt a company as large as Microsoft.

Thank you for your attention.

